

**DEPARTMENT OF HEALTH SERVICES
DIVISION OF LICENSING SERVICES
OFFICE OF CHILD CARE LICENSING
#SP-029-DLS-CCL**

**Clarification on Whether a Child Care Facility May Require a Release of Liability as a
Condition of Enrollment or for Participation in an Activity, Including a Field Trip**

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement.

The purpose of this substantive policy statement is to clarify whether a child care facility may require a signed release of liability as a condition of enrollment or for participation in an activity, including a field trip. Currently, some child care facilities require a parent to sign a release of liability as a condition of initial or continued enrollment, or for participation in an activity such as a field trip.

A.R.S. § 36-883(A) requires the Arizona Department of Health Services (ADHS) to prescribe reasonable rules regarding the health, safety, and well-being of the children to be cared for in a child care facility. Under this authority, ADHS requires a child care facility to carry certain insurance coverage.

R9-5-308, Insurance Requirements, states:

- A. A licensee shall secure and maintain the following minimum insurance coverage:
 - 1. General facility liability insurance of at least \$300,000; and
 - 2. Motor vehicle insurance coverage required by R9-5-517(A)(2) for each motor vehicle used by a licensee to transport enrolled children.
- B. A licensee shall provide a copy of each certificate of insurance to the Department before issuance of a license and at any time that the licensee's insurance coverage expires, is canceled, or changes.

Because requiring a parent to sign a release of liability is an attempt to nullify the protection afforded to enrolled children under the insurance coverage required by R9-5-308, ADHS interprets the practice of requiring releases of liability as a means to circumvent those insurance requirements. ADHS interprets the requirements in R9-5-308 as prohibiting a child care facility from requiring a parent to sign a release of liability as a condition of enrollment or for participation in an activity, including a field trip.

*Effective July 15, 2005
Arizona Department of Health Services
Division of Licensing Services
Office of Child Care Licensing
150 North 18th Avenue, Suite 400
Phoenix, AZ 85007*